

**Terminal Disclaimer To Obviate A Double  
Patenting Rejection Over A Prior Patent**

Docket No.  
3051-67

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APR 15 2002  
TECH CENTER 1600

In Re Application Of:

Sawyer, et al.

Serial No.

09/836,567

Filing Date

April 17, 2001

Examiner

J. Goldberg

Group Assignment

1614

Invention: **Methods for Identifying and Treating Resistant Tumors**

Owner of Record: **Eli Lilly and Company**

04/11/2002 MGBREN1 00000012 09836567

02 FC:148

110.00 OP

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

The above-identified owner of record of a 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,543,428. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

*Rebecca Ball*

Signature

Dated: March 29, 2002

Rebecca L. Ball

Typed or Printed Name

- ☒ Terminal disclaimer fee under 37 C.F.R. 1.20(d) included.  
☒ PTO suggested wording for terminal disclaimer was unchanged.  
☐ Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee.

BARNES & THORNBURG

11 South Meridian Street  
Indianapolis, Indiana 46204  
(317) 236-1313

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APR 15 2002

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APR 10 2002 PATENT APPLICATION

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1614

Attorney Docket: 3051-67789

Applicant: Sawyer, et al.

Invention: METHODS FOR IDENTIFYING AND  
TREATING RESISTANT TUMORS

Serial No: 09/836,567

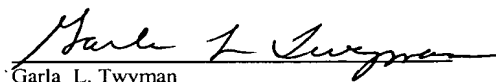
Filed: April 17, 2001

Examiner: J. Goldberg

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being  
deposited with the United States Postal Service as first  
class mail in an envelope addressed to Assistant  
Commissioner for Patents, Washington, D.C. 20231

on March 29, 2002

  
Garla L. Twyman

Dated: March 29, 2002

TRANSMITTAL OF TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321(b)

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith is a Terminal Disclaimer filed on behalf of Eli Lilly and Company, owners of the captioned application and cited U.S. Patent No. 5,543,428. Our check number 311363 in the amount of \$110.00 in payment of the fee under 37 C.F.R. § 1.20(d) accompanies this response. Applicants believe that no other fees are required with this disclaimer. If any additional fees are required, the Commissioner is authorized to charge the same or to credit any overpayment to our Deposit Account No. 10-0435 with reference to our matter 3051-67789.

Respectfully submitted,



Rebecca L. Ball

Registration No. 46,535

RVB/glt  
(317) 231-7511  
Indianapolis, Indiana 46204  
INDS02 RVB 437825v1